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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,251	09/03/2004	Eric Mackey	27475/06878	5250

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CALFEE HALTER & GRISWOLD, LLP  
800 SUPERIOR AVENUE  
SUITE 1400  
CLEVELAND, OH 44114

EXAMINER
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RODRIGUEZ, RUTH C

ART UNIT	PAPER NUMBER
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3677

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/08/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/711,251	<b>Applicant(s)</b> MACKEY ET AL.	
	<b>Examiner</b> Ruth C. Rodriguez	<b>Art Unit</b> 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 January 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4 and 12-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Dupre (US 4,432,121).

A bungee cord hook (C) comprises a base portion (2) and a hook portion (1). The base portion has a top and a bottom (Figs. 2-4). The top has a first end and a second end (Figs. 2-4). The hook portion has a first portion extending in a direction outward from the first end and a second portion curving away from the first end and the second end. (Figs. 2-4).

The hook portion includes a flared base portion (Figs. 2 and 4). The flared base portion strengthens a connection between the hook portion and the base portion (Figs. 2-4).

The hook portion includes an angled back towards the base portion of the bungee cord hook to provide greater clearance for securing the hook portion of an object (Fig. 4).

The base portion and the hook portion are comprised of overmolded plastic (Figs. 2-4).

A bungee cord comprises a stretchable cord (CE1) and a bungee cord hook (C) secured to either end of the stretchable cord (Fig. 10). Each of the bungee cord hooks comprises a base portion (2) and a hook portion (1). The base portion has a top and a bottom (Figs. 2-4). The top has a first end and a second end (Figs. 2-4). The hook portion has a first portion extending in a direction outward from the first end and a second portion curving away from the first end and the second end. (Figs. 2-4).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8-11 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dupre in view of Tracy (US 4,559,677).

Dupre disclose a bungee cord hook having all the features mentioned above for the rejection of claims 1 and 12. Dupre fails to disclose that the hook further comprises a protective bumper. However, Tracy teaches a bungee cord (10,12) comprises a stretchable cord (12) and a bungee hook (12) secured to either end of the stretchable

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cord (Figs. 1 and 2). Each of the bungee hooks comprises a base portion (24) including first and second ends and a hook portion (16) extending outwardly and away from the base portion (Figs. 1 and 2). The hook further comprises a protective bumper (Figs. 1 and 2). It is inherent that the protective bumper provides a better grip of the hook while being placed over an attachment point. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the protective bumper taught by Tracy in the hook disclosed by Dupre. Doing so, provides a better grip of the hook while being placed over an attachment point.

Tracy also teaches that:

- The protective bumper is located along a circumferential surface of the base portion (Figs. 1 and 2).
- The protective portion aligns with the hook portion (Figs. 1 and 2).
- The protective portion includes a set of grooves (Figs. 1 and 2).

5. Claims 5-7, 16-18 and 22-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schrader in view of Johnston (US 2004/0148831).

Dupre disclose a hook having all the features mentioned above in paragraph 2 for the rejection of claim 1. Dupre fails to disclose that the hook further comprises an indicator plate located at the base portion. However, Princiotta teaches a garment hanger comprising a hook having a base portion (14,30) including first and second ends and a hook portion (20) extending outwardly and away from the base portion (Figs. 2-9). An indicator plate (35) is located in the base portion. The indicator plate provides information (Fig. 2). Therefore, it would have been obvious to one having ordinary skill

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in the art at the time of Applicant's invention to have an indicator plate located at a base as taught by Princiotta in the hook of Dupre. Doing so, provides information.

Princiotta teaches that the indicator plate is recessed within the base portion (Figs. 2-9).

Princiotta teaches that the indicator plate is a label. Princiotta fails to disclose that the label has a clear protective window covers the indicator plate. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have a label provide with a protective window covering the indicator plate since the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960). Especially since labels with a clear window is well known and the window serves to protect the indicia contained by the label.

A combination of claims 1 and 5 or 12 and 16 will serve to reject the limitations of claim 22, 24, 26 and 27.

### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1-31 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Liberge (US 4,340,998), Dupre (US 4,432,121), Tracy (US 4,559,677), Fisher (US 4,785,509), Prosen (US 5,035,558), McIntire (US 5,383,259), Brody et al. (US 5,630,257 and US 5,682,652), Schrader (US 6,094,784 and US 6,308,383 B1) and Selby (US 2004/0060155 A1) are cited to show state of the art with respect to hooks that have some of the features claimed by the current application.

McDaniel

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth C. Rodriguez whose telephone number is (571) 272-7070. The examiner can normally be reached on M-F 07:15 - 15:45.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075.

Submissions of your responses by facsimile transmission are encouraged. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-6640.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ruth C. Rodriguez  
Patent Examiner  
Art Unit 3677

  
**Katherine Mitchell**  
**Primary Examiner**